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## Turkey's Constitutional Debate: Presidentialism Alla Turca or Parliamentary Government

By *İlter Turan*

Those who tried to prevent in 2007 the parliament's election of Abdullah Gül as Turkey's 11th president because his wife wore a headscarf surely never imagined that their efforts would open the way to an attempt to transform the country's political system into a presidential one. The opponents of Mr. Gül's candidacy had argued that the election could not start because, given the distribution of the vote, a quorum for the first round could not be reached. Although Turkey's Constitution depicted a lower number for a quorum than the qualified majorities that were required to elect a president, a majority in the Constitutional Court shared the viewpoint of the opposition. The parliament's failure to elect a new president led to the renewal of elections. Before the MPs went home, however, the AK Party's majority adopted an amendment to the constitution subject to ratification by public referendum that the president should be popularly elected. The parliamentary elections that were held before the referendum gave the governing party an impressive victory. Mr. Gül became the president. To avoid similar contingencies in the future, however, the government chose to go through with the referendum. The changes were ratified by a wide margin.

In 2014, after Mr. Gül had served out his seven year term, Turkey held its first presidential election, which Prime Minister Recep Tayyip Erdoğan easily won. From the very beginning, Erdoğan argued that having the power of the "national will" behind him, he should not be constrained by a constitution written for a president elected by the parliament. His commanding personal popularity allowed him to offer appointment and policy "guidance" to the party that he had theoretically left behind. This proved to be problematical. Ahmet Davutoğlu, the first prime minister was forced to resign after nearly two years for having behaved too independently of the president. President-government peace was restored only after the appointment of the prag-

matic Erdoğan loyalist Binali Yıldırım who has taken care to remain within the limits of the president's guidance.

The current Turkish constitution envisages a non-partisan president with some powers of appointment but distant from the policymaking process and the daily affairs of government. Initially designed by the 1980-1983 military junta under the assumption that the position would likely be held by a person of military or bureaucratic background, the Turkish presidency had already constituted a target for criticism by incumbents coming from politics. Two consecutive presidents, Turgut Özal and Süleyman Demirel, were sufficiently attracted by the prestige of the office to leave their prime ministerial posts. Both wanted to continue to exercise the power of the position they left behind, and searched ultimately unsuccessfully for informal and formal ways to do so. Erdoğan, after making frequent references to the mismatch between his method of election and the limited power he enjoys, has finally proposed a set of constitutional changes that aim to transform the Turkish political system along presidential lines. The AKP, lacking the numbers to pass the changes, managed to enlist the support of the Nationalist Movement Party (MHP) and rushed through a set of changes in late January 2017 to be submitted to a referendum on April 16.

### Proposed Changes

What is the nature of the changes that are proposed and what kind of a system is to emerge if the changes are ratified? The government argues that the proposed system is uniquely Turkish. To distinguish it from other presidential systems, utilizing the distinction in the Turkish language between the words that refer to a presidency in a parliamentary (*cumhurbaşkanlığı*) and a presidential (*başkanlık*) system, it is proposed that the former describes it better, connoting that this is not an offshoot of the U.S. model. The

system is said to be built on the principle of complete separation of powers, but accords extensive powers to the president in issuing decrees and making appointments in the bureaucracy and the judiciary. Legal experts note that, in contrast to the U.S. system in which the different branches are interlinked through a system of checks and balances, the proposed system does not contain sufficient and effective checks on the powers of the president. The limited instruments available to the parliament are likely to be unworkable. To cite one example, the president may declare a state of emergency without parliamentary approval. The decrees issued during the state of emergency are not subject to judicial review. Even under normal conditions, the president enjoys extensive powers to issue decrees, bypassing the parliament. To add another example, according to the proposal, the president will be able to reclaim his partisan affiliation, which is expected to translate into his assuming the leadership of his party, a position which will give him exceptional powers in candidate designation in parliamentary elections and ensure that the deputies obey their leader or risk denial of re-election. And finally, the president will be able to dissolve the parliament as he deems necessary — which will automatically trigger early presidential elections — a formidable power to keep the parliament in check. The dismissal of the president by the parliament, on the other hand, is subject to stringent conditions.

### The Campaign

As soon as the constitutional changes were accepted in the legislature, an intense campaign has commenced. The AK Party sees the ratification of the changes as being critical for continuing to stay in power. It has engaged in a no-holds-barred effort to make sure that the outcome is positive. Both the president and the ministers have been campaigning actively, often using means that being in office places at their disposal. The government has also engaged in a series of acts of financial generosity toward voters (e.g. temporary reduction of some taxes and postponing the payment of others), anticipating that these gestures will translate into political support. The content of their messages has often been highly polarizing, aiming at those who are opposed to changes with ethnic separatism, Gülenist support, and even collusion with ill-intentioned outside powers. The need for the changes, on the other hand, is justified in terms of conflicts between the government and the president that can paralyze government and render it ineffective. The removal of such potential for conflict, it is argued, will make for efficient government, bring an end to separatist terrorism, and allow the government to put the country back on to a path of rapid economic development. The merits of the law are hardly ever discussed. Whether there were major conflicts between the president and parliamentary government during the last thirteen years of AK Party rule, and what has kept the incumbent government from achieving the results promised to ensue after the constitution is changed, also go

unanswered. The junior partner in the pro-change coalition, the Nationalists (MHP), have been conducting a more subdued campaign focusing on fighting ethnic separatism. This low key approach derives in large part from the fact that a majority of the party's rank and file have defied their leaders and are opposing the changes.

The major opposition Republican People's Party (CHP) has surprised the AK Party by deciding to conduct a "positive" campaign, for example not attacking the governing party but focusing on the content of the changes proposed and how they would influence the future of the country. Predicting that the major opposition would opt for a polarized struggle as it had in the past, the AK Party has been somewhat confused as regards how it should counter this new approach. Its confusion has been confounded by opinion polls that have not given a clear-cut lead to those who support the change. This has led to frequently shifting campaign themes and tactics as well as the use of highly confrontational language by both the prime minister and the president in search of the best way to persuade the voters that the proposed changes deserve their support. A development that may have enhanced support for "Yes" votes has been the hard line the governments of European countries with substantive Turkish immigrant populations have adopted, denying government ministers entry to the country to prevent them from campaigning among guest workers.

It is difficult to predict how the supporters of the Kurdish Peoples's Democratic Party (HDP) will vote. With their parliamentary immunities removed, several of the deputies including party leaders are in prison for a variety of violations, usually for promoting ethnic separatism and therefore cannot take part in the campaign. While it is known that the party is against the proposals, it is difficult to predict whether the feeling of alienation experienced by the party's supporters will guide them to stay home and not vote. Opinion polls, some of which are notoriously unreliable, have found neither the "Yes" nor the "No" votes in the clear lead. There continues to be a substantial percentage of undecided voters. Some who say they are going to vote will likely abstain. It is going to be a tight race until the very end.

### A Turning Point?

All Turkish parties are agreed that this referendum will constitute a turning point in Turkish politics. The proponents of change argue that Turkey's faltering democracy will be left behind for a brighter, more prosperous and democratic future. Opponents claim that democracy will be replaced by authoritarianism. Who is right? A rushed answer may be premature. One cannot but note, however, that what is happening in Turkey is not significantly different than what has been happening in other European societies that have recently experienced the rise of populist leaders and parties. Populist politics tend to be leader dominated, and they find

rules and institutions as impediments standing in the way of the leader in serving his or her country. It is too early to judge the extent that populist politics will transform liberal democracies along authoritarian lines, although it is evident that formidable challenges have already emerged in countries like Poland, Hungary, and Turkey.

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#### **About the Author**

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